

TENNESSEE GENERAL ASSEMBLY
FISCAL REVIEW COMMITTEE



FISCAL MEMORANDUM

HB 79 - SB 747

April 13, 2021

SUMMARY OF ORIGINAL BILL: Clarifies terminology under the Uniform Administrative Procedures Act (UAPA) regarding payments of reasonable expenses. Establishes that a hearing officer or administrative law judge is authorized to order the agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if the party prevails on the merits of the allegations and the agency issued the notice to harass or cause needless delay or expense to the party.

Requires a hearing officer or administrative law judge that finds a state agency issued a notice to harass or cause needless delay or expense, to issue a written order of the facts that determined the decision. Authorizes a court to require a license or certificate holder to pay reasonable costs incurred by the Department of Health (DOH) if a party issued a sanction seeks judicial review or a chancery court decision after a contested case hearing.

FISCAL IMPACT OF ORIGINAL BILL:

NOT SIGNIFICANT

SUMMARY OF AMENDMENT (007099): Deletes and rewrites all language after the enacting clause such that the substantive changes are establishing that a hearing officer or administrative law judge is authorized to order the agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if the claims are not warranted by existing law or argument for modification of existing law and the claims in the notice do not have evidentiary support, or the agency issued the notice to harass or cause needless delay or expense to the party. Clarifies that the conditions in which an agency would be required to pay the party issued a notice are not satisfied simply by a state agency failing to prevail against the receiver.

Prohibits a court from requiring a license or certificate holder to pay costs incurred by the DOH for judicial review or a chancery court decision unless the claims in the petition for judicial review are not warranted by law and not have evidentiary support or the judicial review was petitioned to harass or cause unnecessary delay to the agency.

FISCAL IMPACT OF BILL WITH PROPOSED AMENDMENT:

Unchanged from the original fiscal note.

Assumptions for the bill as amended:

- Clarification of UAPA language for uniformity purposes will not significantly impact the number of contested case hearings held between state agencies and other parties or state expenditures associated with such hearings.
- Pursuant to Tenn. Code Ann. § 4-5-325, a hearing officer or administrative law judge is authorized to order a state agency to pay a party issued a citation, at the conclusion of a contested case hearing, if even to the best of the agency's knowledge, the violation was not warranted, or the agency issued the notice to harass or cause needless delay or expense.
- The proposed legislation authorizes a hearing officer or administrative law judge to order a state agency to pay the party issued a notice the reasonable expenses incurred because of the notice, if they find the claims are not warranted by existing law or argument for modification of existing law and the claims in the notice do not have evidentiary support, or the agency issued the notice to harass or cause needless delay or expense to the party. The proposed legislation could result in a decrease in expenditures for state agencies ordered to pay expenses to a party issued a notice after a contested case hearing; however, any decrease is not estimated to be significant.
- A hearing officer or administrative law judge can issue a written order of the determining facts within existing resources.
- There is not estimated to be a sufficient number of judicial review cases for the DOH to see any significant change in revenue or expenditures.

CERTIFICATION:

The information contained herein is true and correct to the best of my knowledge.

A handwritten signature in black ink that reads "Krista Lee Carsner". The signature is written in a cursive, flowing style.

Krista Lee Carsner, Executive Director

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